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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/728,305

11/30/2000

Thomas A. Bohannon

ALTE00012

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7590

07/14/2004

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EXAMINER

YUSSUF, SAJID

ART UNIT

PAPER NUMBER

2141

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/728,305

Applicant(s)

BOHANNON ET AL.

Examiner

Sajid A Yussuf

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2000 and 08 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

2. Claims 1 & 2 are objected to because of the following informalities:
 - a. As per claim 1 Line 4 "capable running" should have [of] to clarify grammar wherein the claim should recite "capable [of] running." Examiner suggests Applicant to change the informality
 - b. As per claim 2 Line 2 "top of a 15" is not clear wherein Applicant may have mistakenly included the line number when copying the claim therefore Examiner suggests omitting the number 15 from the claim language.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - c. A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
 - d. Determining the scope and contents of the prior art.
 - e. Ascertaining the differences between the prior art and the claims at issue.
 - f. Resolving the level of ordinary skill in the pertinent art.
 - g. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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5. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rune et al. (US Patent No. 6,304,913 and Rune hereinafter) in view of Biliris et al. (US Patent Application Publication No. 2002/0078233 and Biliris hereinafter).

6. As per claim 1 Rune discloses a plurality of network appliances that optimize the performance of domains hosted on geographically distributed mirrored network sites, (See Column 1 Lines 54-67 & Column 2 Lines 1-24); and a network over which said network appliances and said client computer communicate, (See Column 3 Lines 49-64); wherein said network appliances located at each mirror site work in concert to direct client connections to a network site with the optimal response time to said client, (See Column 1 Lines 54-67 & Column 2 Lines 1-24).

However, Rune does not explicitly teach a client computer capable [of] running a session to display or change the configuration of said network appliances.

Biliris teaches a client computer capable [of] running a session to display or change the configuration of said network appliances, (See Paragraph(s) 0018-0019).

Therefore it would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to modify the teaching of Rune with the teachings of Biliris to include a client computer capable [of] running a session to display or change the configuration of said network appliances with the motivation to provide for an architecture that advantageously leverages multiple content distribution networks to provide enhanced services... a share of content requests are served by each of a plurality of content distribution networks. The fraction of content requests served by a particular content distribution network can be determined dynamically, depending for example on the offered load or other traffic characteristics, (See Biliris Paragraph(s) 0006).

7. As per claim(s) 2 Rune discloses the claimed invention as described above.

However, Rune does not explicitly teach wherein said network appliance communicates with each: other through an authenticated protocol on top of a ~~15~~ communications protocol.

Biliris teaches wherein said network appliance communicates with each: other through an authenticated protocol on top of a ~~15~~ communications protocol, (See Paragraph(s) 0151).

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Therefore it would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to modify the teaching of Rune with the teachings of Biliris to include a network appliance communicating with each other through an authenticated protocol on top of a 15 communications protocol with the motivation to provide for an architecture that advantageously leverages multiple content distribution networks to provide enhanced services... a share of content requests are served by each of a plurality of content distribution networks. The fraction of content requests served by a particular content distribution network can be determined dynamically, depending for example on the offered load or other traffic characteristics, (See Biliris Paragraph(s) 0006).

8. As per claim(s) 3 Rune teaches the claimed invention as described in claim(s) 1-2 above and furthermore discloses wherein said network appliance communicates with said client computer through a TCP protocol, (See Column 8 Lines 30-41).

9. As per claim(s) 4 Rune discloses the claimed invention as described above.

However, Rune does not explicitly teach wherein said client computer runs a secure or insecure telnet session to display or modify the configuration of said network appliances.

Biliris teaches wherein said client computer runs a secure or insecure telnet session to display or modify the configuration of said network appliances, (See Paragraph(s) 0018-0019).

Therefore it would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to modify the teaching of Rune with the teachings of Biliris to include a client computer running a secure or insecure telnet session to display or modify the configuration of said network appliances with the motivation to provide for an architecture that advantageously leverages multiple content distribution networks to provide enhanced services... a share of content requests are served by each of a plurality of content distribution networks. The fraction of content requests served by a particular content distribution network can be determined dynamically, depending for example on the offered load or other traffic characteristics, (See Biliris Paragraph(s) 0006).

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Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

h. Cummings et al. (US Patent Application No. 2002/0087725) discloses site selection based on internet protocol address;

i. Anerousis et al. (US Patent No. 6,760,775) discloses system, method and apparatus for network service load and reliability management;


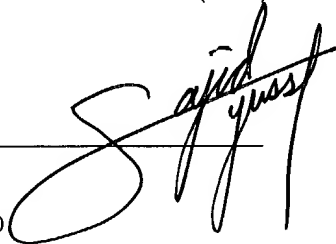
j. Narasimhan et al. (US Patent No. 6,446,192) discloses remote monitoring and control of equipment over computer networks using a single web interface chip;

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sajid A Yussuf whose telephone number is (703) 305-8752. The examiner can normally be reached on Monday-Thursday 7:30-5:00 PM and Alternate Fridays.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sajid Yussuf
Patent Examiner
Technology center 2100
8 July 2004



RUPAL DHARIA
SUPERVISORY PATENT EXAMINER